

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Rakowski

Application Serial No. 10/654,203

Filing Date: September 3, 2003

Art Unit 1793

Examiner Jessee R. Roe

Confirmation No. 5809

OXIDATION RESISTANT FERRITIC
STAINLESS STEELS

Attorney Docket No. RL-2000

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

September 29, 2010

VIA EFS-Web

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATI Properties, Inc., owner of the entire right, title, and interest in the above-identified patent application (the "Subject Application"), submits the enclosed *Supplemental Summary of Claimed Subject Matter* in response to the Notification of Non-Compliant Appeal Brief issued on September 1, 2010 in connection with the appeal brief filed on August 26, 2010 for the Subject Application.

Appellant respectfully requests entry of the supplemental section presented herein and consideration of the appeal brief, including both the original *Summary of Claimed Subject Matter* contained in the as-filed appeal brief and the *Supplemental Summary of Claimed Subject Matter* presented herein.

V. SUPPLEMENTAL SUMMARY OF CLAIMED SUBJECT MATTER

All references herein to the "Specification" of the Subject Application refer to the paragraph numbers, page numbers, and/or figures of the specification as originally filed. References to the *Specification* do not refer to the paragraph numbers of United States Patent Application Publication No. 2005/0045250. The claims under consideration in the present appeal include four (4) independent claims, claims 1, 10, 11, and 99.

Claims 1, 10, 11, and 21 recite methods for making a ferritic stainless steel article having an oxidation resistant surface, as described in the paragraph [0001] of the *Specification*. The preamble of claim 11 is different than the preambles of claims 1, 10, and 21 in that claim 11 recites a "method for making a ferritic stainless steel article having an uncoated electropolished oxidation resistant surface." An uncoated electropolished oxidation resistant surface is described in Example 1 and Example 2 in the *Specification* at paragraphs [0052]-[0056] and [0059]-[0063], respectively (describing the electropolishing of ferritic stainless steel samples that do not have any coating applied to the surfaces of the articles, thus forming uncoated electropolished oxidation resistant surfaces).

Claims 1, 10, and 11 recite "providing a ferritic stainless steel comprising 0.2 to 1.0 weight percent aluminum, at least one rare earth metal and 16 to less than 30 weight percent chromium, wherein the total weight of rare earth metals is from 0.02 to 1.0 weight percent." This feature is described in paragraphs [0013], [0015], and [0069]-[0073] of the *Specification*. Claims 1, 10, and 11 also recite "electropolishing at least one exposed surface of the ferritic stainless steel." This feature is described in paragraphs [0015] and [0050]-[0051] of the *Specification*.

Claim 99 recites "electropolishing at least one exposed surface of a ferritic stainless steel comprising 0.4 to 0.8 weight percent aluminum, 18 to 22 weight percent chromium, and 0.02 to 0.2 weight percent rare earth metals, wherein the rare earth metals are selected from the group consisting of cerium, lanthanum, praseodymium,

and combinations of any thereof." This feature is described in paragraphs [0013], [0015], [0050]-[0051], and [0069]-[0073] of the *Specification*.

Claims 1, 10, and 99 recite that when the electropolished surface of the ferritic stainless steel is exposed to a high temperature oxidizing atmosphere, the exposed electropolished surface develops an aluminum-rich oxide scale having a hematite structure and comprising aluminum, chromium, and iron and. This feature is described in paragraphs [0013], [0015], and [0065]-[0068] of the *Specification*.

Claim 1 recites that the aluminum-rich oxide scale is electrically conductive, oxidation resistant, and has a hematite structure that is different than the hematite structures of Fe_2O_3 , $\alpha\text{-Cr}_2\text{O}_3$, and $\alpha\text{-Al}_2\text{O}_3$. These features are described in paragraphs [0013], [0063], and [0065]-[0068] of the *Specification*. Claims 10 and 99 recite that the aluminum-rich oxide scale has lattice parameters a_0 in the range of 4.95 Å to 5.04 Å and c_0 in the range of 13.58 Å to 13.75 Å. This feature is described in paragraphs [0015] and [0065]-[0068] of the *Specification*.

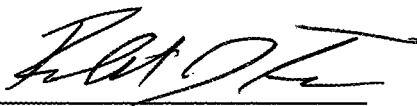
REMARKS

It is believed that the supplemental section presented herein fully complies with 37 C.F.R. § 41.37 and addresses all of the issues raised in the Notification of Non-Compliant Appeal Brief. Although no fees are believed necessary in connection with the supplemental section presented herein, the Commissioner is hereby authorized to charge PTO Deposit Account No. 11-1110 for any fees necessary for entry of the supplemental section presented herein and for consideration of the appeal brief.

Appellant respectfully requests entry of the supplemental section presented herein and consideration of the appeal brief, including both the original *Summary of Claimed Subject Matter* contained in the as-filed appeal brief and the *Supplemental Summary of Claimed Subject Matter* presented herein.

Respectfully submitted,

Sept. 29, 2010
Date


Robert J. Toth
Registration. No. 57741

K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

Tel: 412.355.8382